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SENATE BILL 104

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Joseph J. Carraro

AN ACT

RELATING TO LAW ENFORCEMENT; REVISING THE DEFINITIONS FOR SEX OFFENDER AND SEX OFFENSE; LENGTHENING REGISTRATION PERIODS FOR SEX OFFENDERS; REQUIRING A SEX OFFENDER TO PROVIDE ADDITIONAL REGISTRATION INFORMATION; AMENDING SECTIONS OF THE SEX OFFENDER REGISTRATION AND NOTIFICATION ACT; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 29-11A-2 NMSA 1978 (being Laws 1995, Chapter 106, Section 2, as amended) is amended to read:

"29-11A-2. FINDINGS--PURPOSE. --

A. The legislature finds that:

(1) sex offenders pose a significant risk of recidivism; and

(2) the efforts of law enforcement agencies to protect their communities from sex offenders are impaired by

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1 the lack of information available concerning convicted sex
2 offenders who live within the agencies' jurisdictions.

3 B. The purpose of the Sex Offender Registration and
4 Notification Act is to assist law enforcement agencies' efforts
5 to protect their communities by:

6 (1) requiring a sex ~~[offenders]~~ offender who
7 ~~[are residents]~~ is a resident of New Mexico to register with
8 the ~~[county]~~ sheriff of the county in which the sex offender
9 resides;

10 (2) requiring a sex ~~[offenders]~~ offender who
11 ~~[are residents]~~ is a resident in ~~[other states]~~ another state,
12 but who ~~[are]~~ is employed in New Mexico, ~~[or who attend]~~
13 attends school in New Mexico or visits New Mexico for more than
14 twenty-four hours, to register with the ~~[county]~~ sheriff of the
15 county in which the sex offender works, ~~[or]~~ attends school or
16 visits;

17 (3) requiring the establishment of a central
18 registry for sex offenders; and

19 (4) providing public access to information
20 regarding certain registered sex offenders. "

21 Section 2. Section 29-11A-3 NMSA 1978 (being Laws 1995,
22 Chapter 106, Section 3, as amended) is amended to read:

23 "29-11A-3. DEFINITIONS. -- As used in the Sex Offender
24 Registration and Notification Act:

25 A. "sex offender" means a person ~~[eighteen years of~~

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1 ~~age or older~~] who:

2 (1) is a resident of New Mexico who is
3 convicted of a sex offense in New Mexico;

4 (2) changes his residence to New Mexico, when
5 that person has been convicted of a sex offense in another
6 state pursuant to state, federal or military law;

7 (3) is a resident of New Mexico who is
8 convicted of a sex offense pursuant to federal or military law;
9 or

10 (4) is a resident of another state and who has
11 been convicted of a sex offense pursuant to state, federal or
12 military law, but who is:

13 (a) employed full time or part time in
14 New Mexico for a period of time exceeding fourteen days or for
15 an aggregate period of time exceeding thirty days during any
16 calendar year; ~~or~~

17 (b) enrolled on a full-time or part-time
18 basis in a private or public school in New Mexico, including a
19 secondary school, a trade school, a professional institution or
20 an institution of higher education; ~~and~~ or

21 (c) a visitor from another state and
22 will be in New Mexico for more than twenty-four hours; and

23 B. "sex offense" means:

24 (1) criminal sexual penetration in the first,
25 second, third or fourth degree, as provided in Section 30-9-11

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1 NMSA 1978;

2 (2) criminal sexual contact in the fourth
3 degree, as provided in Section 30-9-12 NMSA 1978;

4 (3) criminal sexual contact of a minor in the
5 second, third or fourth degree, as provided in Section
6 30-9-13 NMSA 1978;

7 (4) sexual exploitation of children, as
8 provided in Section 30-6A-3 NMSA 1978;

9 (5) sexual exploitation of children by
10 prostitution, as provided in Section 30-6A-4 NMSA 1978;

11 (6) kidnapping, as provided in Section
12 30-4-1 NMSA 1978, when the victim is less than eighteen years
13 of age and the offender is not a parent of the victim;

14 (7) false imprisonment, as provided in Section
15 30-4-3 NMSA 1978, when the victim is less than eighteen years
16 of age and the offender is not a parent of the victim;

17 (8) aggravated indecent exposure, as provided
18 in Section 30-9-14.3 NMSA 1978;

19 (9) enticement of a child, as provided in
20 Section 30-9-1 NMSA 1978;

21 [~~(8)~~] (10) solicitation to commit criminal
22 sexual contact of a minor in the second, third or fourth
23 degree, as provided in Sections 30-9-13 and 30-28-3 NMSA 1978;
24 or

25 [~~(9)~~] (11) attempt to commit any of the sex

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1 offenses set forth in Paragraphs (1) through [~~(7)~~] (8) of this
2 subsection, as provided in Section 30-28-1 NMSA 1978. "

3 Section 3. Section 29-11A-4 NMSA 1978 (being Laws 1995,
4 Chapter 106, Section 4, as amended) is amended to read:

5 "29-11A-4. REGISTRATION OF SEX OFFENDERS-- INFORMATION
6 REQUIRED-- CRIMINAL PENALTY FOR NONCOMPLIANCE. --

7 A. A sex offender residing in this state shall
8 register with the [~~county~~] sheriff for the county in which the
9 sex offender resides.

10 B. A sex offender who is a current resident of New
11 Mexico shall register with the county sheriff no later than
12 [~~ten days~~] twenty-four hours after being released from the
13 custody of the corrections department or being placed on
14 probation or parole. A sex offender who changes his residence
15 to New Mexico shall register with the county sheriff no later
16 than [~~ten days~~] twenty-four hours after establishing residence
17 in this state. When a sex offender registers with the county
18 sheriff, he shall provide the following registration
19 information:

- 20 (1) his legal name and any other names or
21 aliases that he is using or has used;
22 (2) his date of birth;
23 (3) his social security number;
24 (4) [~~his current address~~] the addresses of all
25 residences he owns, specifying which address is his primary

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1 residence;

2 (5) his motor vehicle registration information
3 with a description of all motor vehicles owned;

4 [~~(5)~~] (6) his place of employment;

5 [~~(6)~~] (7) the sex offense for which he was
6 convicted; and

7 [~~(7)~~] (8) the date and place of his sex
8 offense conviction.

9 C. A sex offender who is a resident of another
10 state but who is employed in New Mexico, [~~or~~] attending school
11 in New Mexico or visiting New Mexico shall register with the
12 [~~county~~] sheriff for the county in which the sex offender is
13 working, [~~or~~] attending school or visiting.

14 D. A sex offender who is a resident of another
15 state but who is employed in New Mexico, [~~or~~] attending school
16 in New Mexico or visiting New Mexico shall register with the
17 county sheriff no later than [~~ten days~~] twenty-four hours after
18 beginning work, [~~or~~] school or his visit. When the sex
19 offender registers with the county sheriff, he shall provide
20 the following registration information:

21 (1) his legal name and any other names or
22 aliases that he is using or has used;

23 (2) his date of birth;

24 (3) his social security number;

25 (4) his current address in his state of

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1 residence and, if applicable, the address of his place of
2 lodging in New Mexico while he is working or attending school;

3 (5) his motor vehicle registration information
4 and a description of all motor vehicles owned or that will be
5 used in New Mexico by him while he is working, attending school
6 or visiting;

7 [~~(5)~~] (6) his place of employment or the name
8 of the school he is attending;

9 [~~(6)~~] (7) the sex offense for which he was
10 convicted; and

11 [~~(7)~~] (8) the date and place of his sex
12 offense conviction.

13 E. When a sex offender registers with a county
14 sheriff, the sheriff shall obtain:

15 (1) a photograph of the sex offender and a
16 complete set of the sex offender's fingerprints and a DNA
17 sample; and

18 (2) a description of any tattoos, scars or
19 other distinguishing features on the sex offender's body that
20 would assist in identifying the sex offender.

21 F. When a sex offender who is registered changes
22 his residence within the same county, the sex offender shall
23 send written notice of his change of address to the county
24 sheriff [~~no later than ten days after~~] prior to establishing
25 his new residence.

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1 G. When a sex offender who is registered changes
2 his residence to a new county in New Mexico, the sex offender
3 shall register with the [county] sheriff of the new county no
4 later than [~~ten days~~] twenty-four hours after establishing his
5 new residence, including proof of the new residence. The sex
6 offender shall also send written notice of the change in
7 residence to the county sheriff with whom he last registered no
8 later than [~~ten days~~] twenty-four hours after establishing his
9 new residence, including proof of the new residence.

10 H. Following his initial registration pursuant to
11 the provisions of this section:

12 (1) a sex offender required to register
13 pursuant to the provisions of Subsection D of Section 29-11A-5
14 NMSA 1978 shall [~~annually~~] renew his registration with the
15 county sheriff [~~prior to December 31 of each subsequent~~
16 ~~calendar year for a period of twenty years~~] every ninety days
17 following his initial registration for the entirety of his
18 natural life; and

19 (2) a sex offender required to register
20 pursuant to the provisions of Subsection E of Section 29-11A-5
21 NMSA 1978 shall [~~annually~~] renew his registration with the
22 county sheriff [~~prior to December 31 of each subsequent~~
23 ~~calendar year~~] every ninety days following his initial
24 registration for a period of [~~ten~~] twenty years.

25 I. A sex offender who willfully fails to comply

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1 with the registration requirements set forth in this section is
2 guilty of a fourth degree felony and shall be sentenced
3 pursuant to the provisions of Section 31-18-15 NMSA 1978.

4 J. A sex offender who willfully provides false
5 information when complying with the registration requirements
6 set forth in this section is guilty of a fourth degree felony
7 and shall be sentenced pursuant to the provisions of Section
8 31-18-15 NMSA 1978. "

9 Section 4. Section 29-11A-4.1 NMSA 1978 (being Laws 2000,
10 Chapter 8, Section 6) is amended to read:

11 "29-11A-4.1. PROCEDURES WHEN A SEX OFFENDER MOVES FROM
12 NEW MEXICO TO ANOTHER STATE. --

13 A. If a sex offender intends to move from New
14 Mexico to another state, no later than thirty days prior to
15 moving to the other state, he shall:

16 (1) notify the [~~county~~] sheriff of the county
17 he resides in that he is moving to the other state; and

18 (2) provide the county sheriff with a written
19 notice that identifies the [~~state~~] new address of the residence
20 to which the sex offender is moving.

21 B. Within five days of receiving a sex offender's
22 written notice of intent to move to another state, the county
23 sheriff shall transmit that information to the department of
24 public safety. Within five days of receiving that information
25 from a county sheriff, the department shall contact the state

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1 agency responsible for registering sex offenders in the state
2 to which the sex offender is moving. The department shall
3 provide that state agency with registration information
4 regarding the sex offender. The department shall also obtain
5 information regarding registration requirements for sex
6 offenders in the state to which the sex offender is moving.
7 The department shall provide the sex offender with written
8 notification of the registration requirements in the state to
9 which the sex offender is moving.

10 C. A sex offender who willfully fails to comply
11 with the requirements set forth in this section is guilty of a
12 [~~misdeemeanor~~] fourth degree felony and shall be punished by
13 imprisonment for a definite term [~~less than~~] of one year or a
14 fine of not more than one thousand dollars (\$1,000) or both."

15 Section 5. Section 29-11A-5 NMSA 1978 (being Laws 1995,
16 Chapter 106, Section 5, as amended) is amended to read:

17 "29-11A-5. LOCAL REGISTRY--CENTRAL REGISTRY--
18 ADMINISTRATION BY DEPARTMENT OF PUBLIC SAFETY--PARTICIPATION IN
19 THE NATIONAL SEX OFFENDER REGISTRY--RULES.--

20 A. A county sheriff shall maintain a local registry
21 of sex offenders in his jurisdiction required to register
22 pursuant to the provisions of the Sex Offender Registration and
23 Notification Act.

24 B. The county sheriff shall forward registration
25 information obtained from sex offenders to the department of

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1 public safety. The initial registration information and any
2 new registration information subsequently obtained from a sex
3 offender shall be forwarded by the county sheriff no later than
4 ten working days after the information is obtained from a sex
5 offender. If the department of public safety receives
6 information regarding a sex offender from a governmental entity
7 other than a county sheriff, the department shall send that
8 information to the sheriff for the county in which the sex
9 offender resides.

10 C. The department of public safety shall maintain a
11 central registry of sex offenders required to register pursuant
12 to the provisions of the Sex Offender Registration and
13 Notification Act. The department shall participate in the
14 national sex offender registry administered by the United
15 States department of justice. The department shall send
16 conviction information and fingerprints for all sex offenders
17 registered in New Mexico to the national sex offender registry
18 administered by the United States department of justice and to
19 the federal bureau of investigation.

20 D. The department of public safety shall retain
21 registration information regarding sex offenders convicted for
22 the following sex offenses for ~~[a period of twenty years~~
23 ~~following the sex offender's conviction, release from prison or~~
24 ~~release from probation or parole, whichever occurs later]~~ the
25 entirety of the sex offender's natural life:

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1 (1) criminal sexual penetration in the first
2 or second degree, as provided in Section 30-9-11 NMSA 1978;

3 (2) criminal sexual contact of a minor in the
4 second or third degree, as provided in Section 30-9-13 NMSA
5 1978;

6 (3) sexual exploitation of children, as
7 provided in Section 30-6A-3 NMSA 1978;

8 (4) kidnapping, as provided in Section 30-4-1
9 NMSA 1978, when the victim is less than eighteen years of age
10 and the offender is not a parent of the victim; ~~[or]~~

11 (5) aggravated indecent exposure, as provided
12 in Section 30-9-14.3 NMSA 1978;

13 (6) enticement of a child, as provided in
14 Section 30-9-1 NMSA 1978; or

15 ~~[(5)]~~ (7) attempt to commit any of the sex
16 offenses set forth in Paragraphs (1) through ~~[(4)]~~ (5) of this
17 subsection, as provided in Section 30-28-1 NMSA 1978.

18 E. The department of public safety shall retain
19 registration information regarding sex offenders convicted for
20 the following offenses for a period of ~~[ten]~~ twenty years
21 following the sex offender's conviction, release from prison or
22 release from probation or parole, whichever occurs later:

23 (1) criminal sexual penetration in the third
24 or fourth degree, as provided in Section 30-9-11 NMSA 1978;

25 (2) criminal sexual contact in the fourth

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1 degree, as provided in Section 30-9-12 NMSA 1978;

2 (3) criminal sexual contact of a minor in the
3 fourth degree, as provided in Section 30-9-13 NMSA 1978;

4 (4) sexual exploitation of children by
5 prostitution, as provided in Section 30-6A-4 NMSA 1978;

6 (5) false imprisonment, as provided in Section
7 30-4-3 NMSA 1978, when the victim is less than eighteen years
8 of age and the offender is not a parent of the victim;

9 (6) solicitation to commit criminal sexual
10 contact of a minor in the second, third or fourth degree, as
11 provided in Sections 30-9-13 and 30-28-3 NMSA 1978; or

12 (7) attempt to commit any of the sex offenses
13 set forth in Paragraphs (1) through (5) of this subsection, as
14 provided in Section 30-28-1 NMSA 1978.

15 F. The department of public safety shall adopt
16 rules necessary to carry out the provisions of the Sex Offender
17 Registration and Notification Act. "

18 Section 6. Section 29-11A-5.1 NMSA 1978 (being Laws
19 1999, Chapter 19, Section 8, as amended) is amended to read:

20 "29-11A-5.1. PUBLIC ACCESS TO INFORMATION REGARDING
21 CERTAIN REGISTERED SEX OFFENDERS--ACTIVE COMMUNITY
22 NOTIFICATION--INTERNET WEB SITE. --

23 A. If a sex offender is convicted of one of the
24 following sex offenses, the county sheriff shall forward
25 registration information obtained from the sex offender to the

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1 district attorney for the judicial district in which the sex
2 offender resides and, if the sex offender is a resident of a
3 municipality, the chief law enforcement officer for the
4 municipality in which the sex offender resides:

5 (1) criminal sexual penetration in the first,
6 [~~or~~] second or third degree, as provided in Section 30-9-11
7 NMSA 1978;

8 (2) criminal sexual contact of a minor in the
9 second, third or fourth degree, as provided in Section 30-9-13
10 NMSA 1978;

11 (3) sexual exploitation of children, as
12 provided in Section 30-6A-3 NMSA 1978;

13 (4) sexual exploitation of children by
14 prostitution, as provided in Section 30-6A-4 NMSA 1978; or

15 (5) attempt to commit any of the sex offenses
16 set forth in Paragraphs (1) through (4) of this subsection, as
17 provided in Section 30-28-1 NMSA 1978.

18 B. A person who wants to obtain registration
19 information regarding sex offenders described in Subsection A
20 of this section may request that information from the:

21 (1) sheriff for the county in which the sex
22 offenders reside;

23 (2) chief law enforcement officer for the
24 municipality in which the sex offenders reside;

25 (3) district attorney for the judicial

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1 district in which the sex offenders reside; or

2 (4) secretary of public safety.

3 C. Upon receiving a request for registration
4 information regarding sex offenders described in Subsection A
5 of this section, the county sheriff, chief municipal law
6 enforcement officer, district attorney or secretary of public
7 safety shall provide that registration information, with the
8 exception of a sex offender's social security number, within a
9 reasonable period of time, and no later than seven days after
10 receiving the request.

11 D. Within seven days of receiving registration
12 information from a sex offender described in Subsection A of
13 this section, the county sheriff shall contact every licensed
14 daycare center, elementary school, middle school and high
15 school within a one-mile radius of the sex offender's residence
16 and provide them with the sex offender's registration
17 information, with the exception of the sex offender's social
18 security number.

19 E. The department of public safety [~~may~~] shall
20 establish and manage an internet web site that provides the
21 public with registration information regarding sex offenders
22 described in Subsection A of this section. The registration
23 information provided to the public pursuant to this subsection
24 shall not include a sex offender's social security number or a
25 sex offender's place of employment, unless the sex offender's

1 employment requires him to have direct contact with children. "

2 Section 7. EMERGENCY.--It is necessary for the public
3 peace, health and safety that this act take effect immediately.

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